

THE CITY OF SEATTLE
DIRECTOR'S RULE
IMPLEMENTING SEATTLE BUSINESS TAX ORDINANCE
RULE 5-035

FILED
CITY OF SEATTLE
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CITY CLERK

Seattle Rule 5-035 **Freight and delivery charges.**

- (1) **Introduction.** This rule explains that freight and delivery costs charged to the buyer are generally part of the selling price. Sections 82.04.070 and 82.04.080 RCW, in defining "gross proceeds of sales" and "gross income of the business," states that delivery costs may not be deducted from the measure of the business license tax.

- (2) **Amounts received by a seller** from a purchaser for freight and delivery costs incurred by the seller prior to completion of sale constitute recovery of costs of doing business and must be included in the selling price or gross proceeds of sales reported by the seller regardless of whether charges for such costs are billed separately or whether the seller is also the carrier. The sale is complete when the purchaser or the purchaser's agent has received the goods.
 - (a) "Purchasers agent" means a person authorized to receive goods for the purchaser with the power to inspect and accept or reject them.
 - (b) "Received" or "receipt" means the purchaser or its agent first either taking physical possession of the goods or having dominion and control over them. It means the purchaser or its agent has examined the goods and has accepted them.
 - (c) It is presumed that the person who is shown as the consignor (or other designation of the person from whom the goods are sent) on the bill of lading has control over the goods while the goods are in the hands of the carrier. It also will be presumed that the sale is not complete at the time of delivery to the carrier if the seller has personal liability to pay or has paid the carrier.

- (3) **Freight and delivery costs incurred by a lessor**, regardless of whether billed separately to a lessee or not, are costs of doing business to the lessor in every case and must be included in the selling price or gross proceeds of sales reported by the lessor.

- (4) **Delivery costs incurred after the buyer has taken receipt** of the goods are not part of the selling price when the seller is not liable to pay or has not paid the carrier. It must be clearly shown that the buyer alone is responsible to pay the carrier for the delivery costs to be excluded from the taxable value of the selling price.

- (5) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.
 - (a) XYZ Corporation in Spokane orders a repair part for its machine from ABC Distributors located in Seattle. XYZ Corporation requests that the part be shipped by next day air and agrees to pay the additional shipping costs. The seller bills the buyer the exact amount of shipping costs. ABC Distributors is subject to the business license tax on the amounts billed as shipping charges. The seller was liable to pay the air carrier and the buyer had not taken receipt at the time the part was given to the carrier.
 - (b) Jane Doe orders a life vest from Marine Sales in Seattle and she requests that the vest be shipped by United States mail to her home in Bellingham. The seller places the correct postage on the package using a postage meter and charges the buyer the exact amount of postage. The charge for the postage is taxable to the seller. The seller had liability for payment of the postage to the postal service and was required to affect delivery to the buyer.

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- (c) L&M Machinery of Spokane ordered a large piece of equipment from ACE Equipment in Seattle. L&M specified that the equipment was to be shipped by prepaid freight and free on board (FOB) the seller's dock. L&M requested that the seller use M&T Trucking as the carrier. The transportation charge billed to the buyer is taxable to the seller. The FOB point or other shipping terms are not controlling. The seller was required to deliver the equipment to the buyer. Delivery was not completed until the equipment arrived in Spokane.

- (d) Jones Computer Supply, a distributor located in Seattle, sells computer products primarily by mail order. It is the practice of Jones Computer Supply to make a three-dollar handling charge for each order. No separate charge is made for the transportation. The handling charge is part of the measure of the selling price of the product and fully subject to the wholesaling or retailing business license tax.

Effective: July 15, 2005

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DIRECTOR'S CERTIFICATION

I Kenneth J. Nakatsu, Director of the Department of Executive Administration of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Executive Administration.

DATED this 15th day of July, 2005.

CITY OF SEATTLE,
a Washington municipality

By:



Kenneth J. Nakatsu, Director
Department of Executive Administration

STATE OF WASHINGTON - KING COUNTY

--SS.

183390
CITY OF SEATTLE:Revenue &

No.

Affidavit of Publication

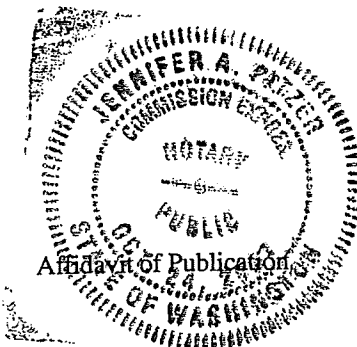
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:RULE MAKING HEARING

was published on

3/21/2005



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Subscribed and sworn to before me on

3/21/2005

Jennifer Prezer
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

NOTICE OF PROPOSED RULE MAKING HEARING AND OPPORTUNITY TO COMMENT

The Director of Finance, acting under the authority of Seattle Municipal Code Chapters 5.02 and 5.55, proposes to adopt new rules for implementing the Seattle Business and Occupation Tax Ordinance (Seattle Municipal Code, Chapter 5.45). Please note that although these rules are applicable to SMC 5.45, the individual rules may also apply to other chapters of the City's Tax Code, including, but not limited to, SMC 5.30 (Definitions), SMC 5.32 (Revenue Code), SMC 5.40 (Admissions Tax), SMC 5.48 (Business Tax -- Utilities) and SMC 5.62 (Gambling Tax). The following rules are proposed for adoption and will become effective as of April 30, 2005:

Seattle Rule 5-006 -- Tax Returns -- Filing and Payment

Seattle Rule 5-007 -- Penalties

Seattle Rule 5-031 -- Measure of Tax -- Retailers and Wholesalers

Seattle Rule 5-032 -- Measure of Tax -- Service and other business activities

Seattle Rule 5-035 -- Freight and Delivery Charges

Seattle Rule 5-040 -- Corporations, Massachusetts trusts

Seattle Rule 5-043 -- Engaging in Business

Seattle Rule 5-063 -- Returned goods, allowances, cash discounts

Seattle Rule 5-100 -- Extracting natural products

Seattle Rule 5-112 -- Commercial or industrial use

Seattle Rule 5-127 -- Sales to and by the State of Washington, counties, cities, school districts, and municipal subdivisions

Seattle Rule 5-130 -- Selling price -- Advertised prices including sales tax

Seattle Rule 5-131 -- Trade-ins, selling price, sellers' tax measures

Seattle Rule 5-132 -- Leased departments

Seattle Rule 5-133 -- Warranties and maintenance agreements

Seattle Rule 5-702 -- Coin operated vending machines, amusement devices and service machines

Seattle Rule 5-404 -- Sales of meals

Seattle Rule 5-405 -- Restaurants, cocktail bars, taverns and similar businesses

Seattle Rule 5-481 -- Motor carriers -- Trucking

Seattle Rule 5-523 -- Sales of precious metal bullion and monetized bullion

Seattle Rule 5-530 -- Sale or rental of real estate, license to use real estate

Seattle Rule 5-531 -- Sales of real property, standing timber, minerals, natural resources

Seattle Rule 5-532 -- Real estate brokers and salesmen

Seattle Rule 5-600 -- Educational institutions, school districts, student organizations, and private schools

Seattle Rule 5-700 -- Amusement, Recreation, and Physical Fitness Services

Seattle Rule 5-720 -- Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Seattle Rule 5-803 -- Consignees, bailees, factors, agents, and auctioneers

Seattle Rule 5-806 -- Advertising agencies

Seattle Rule 5-807 -- Outdoor advertising and advertising display services

PUBLIC HEARING AND COMMENT:
The Department of Executive Administration has scheduled a public hearing on the proposed rule changes for 1:00 p.m. to 3:00 p.m., on Monday, April 4, 2005. The hearing will be held in a conference room on the 40th floor of the Seattle Municipal Tower, Suite 4096, located at 700 5th Avenue. All interested persons are invited to present data, views, or arguments, with regard to the proposed rules, orally at the hearing, or in writing at or before the hearing.

Written comments should be mailed or delivered to:

Department of Executive Administration, Attn.: Mel McDonald, Director, Revenue and Consumer Affairs, 700 5th Avenue - Suite 4250, Seattle, Washington 98104-5020.

The public may inspect copies of the proposed rules at the Revenue and Consumer Affairs offices, 700 5th Avenue, Suite 4200. If you would like a copy of the proposed rules, please call (206) 684-8300, FAX (206) 684-5170, email rca.bizlctx@cl.seattle.wa.us, or submit a written request to the address above.

Dated: March 21, 2005.

DWIGHT D. DIVELY,

Director, Department of Finance.

Date of publication in the Seattle Daily Journal of Commerce, March 21, 2005.

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